IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	: 10/800,752	Confirmation No.	: 1182
First Named Inventor	: Fumio TAJIMA		
Filed	: March 16, 2004		
TC/A.U.	: 2834		
Examiner	: Tran N. Nguyen		
Docket No.	: 056205.43442C5		
Customer No.	: 23911		
Title	: Permanent Magnet Rotating Electric Machine and Electrically Driven Vehicle Employed Same		

RESPONSE TO OFFICE ACTION

Mail Stop Amendment **April 13, 2005**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Claims 1-38 have been rejected on grounds of obviousness-type double patenting, over Claims 1-8 of U.S. Patent No. 6,034,460 in view of Claims 3-7 of U.S. Patent No. 6,734,592 in view of Nakagawa (Japanese patent document JP 5-76146) and Uetake et al (U.S. Patent No. 5,844,344), and other documents. For the reasons set forth herein, however, Applicants respectfully submit that the rejection of the claims of the present application as obvious over the claims of a parent application in view of the claims of a second parent application is not a proper obviousness-type double patenting rejection. Accordingly, this ground of rejection is traversed, and reconsideration and withdrawal are requested.

As indicated in the MPEP §804.01.II.B.1 obviousness-type double patenting applies when the claimed subject matter is not patentably distinct

from "the subject matter claimed in a commonly owned patent. . . ." For this purpose, patentable distinction or "obviousness" is determined based on the prior art. However, for the purpose of an obviousness-type double patenting rejection, the Applicants' own parent application is not considered "prior art". It follows, therefore, that it is improper to reject the claims of the present application on grounds of obviousness-type double patenting over Claims 1-8 of the parent application, now U.S. Patent No. 6,034,460 in view of Claims 3-7 of U.S. Patent No. 6,734,592, another parent application. In other words, the "obviousness", if any, of the claims of the present application over Claims 1-8 of U.S. Patent No. 6,034,460 must be demonstrated by reliance on prior art references, and not on the claims of a second parent application in the chain of pendency of the present application, which does not constitute prior art.

For the reasons set forth above, Applicants respectfully submit that all claims of record in this application are allowable.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 056205.43442C5).

Respectfully submitted,

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